Critical Area Commission

STATE PROJECT SUBMITTAL INSTRUCTIONS, APPLICATION CHECKLIST, & SUPPORTING DOCUMENTATION

PROCESS AT A GLANCE

- 1. Consider the requirements of <u>COMAR 27.02.05</u> on the proposed project.
- 2. Contact Commission staff to begin consultation process and develop a complete application package.
- 3. Submit complete application package 6 weeks in advance of scheduled Commission meeting.
- 4. Advertise project according to <u>COMAR 27.03.01.03</u> at least 14 days in advance of scheduled Commission meeting.

General Instructions

State agencies that propose development in the Critical Area on State owned lands are required to seek review and approval by the Critical Area Commission for that development per COMAR 27.02.05. This document is intended to provide instruction on when to coordinate project review with Commission staff and ultimately submit a development project for review and approval.

> Project Coordination

State regulations require the agency, as soon as practicable in the planning process, to consult with Commission staff regarding:

- 1) The requirements of COMAR 27.02.05 (State Agency Actions Resulting in Development on State-Owned Land), and the likely effects of these requirements on a development project; and
- 2) An assessment of climate resilient practices that address coastal hazards, extreme weather events, sea level rise, and other impacts. (Refer to Appendix C for more details.)

Initial contact with Commission staff may be made by phone, email or by U.S. mail. Commission staff will provide feedback and guidance on Critical Area development and mitigation requirements.

Public Notice

In accordance with COMAR 27.03.01.03, the state agency must demonstrate that the project has met or will meet the applicable Notice Requirements for State Agency and Local Agency Development (see Attachment A) by the date of the scheduled Commission meeting. Public notice requirements include evidence of the following:

- 1) Public notice of the project was published for one business day in a newspaper of general circulation in the geographic area in which the proposed development would occur;
- 2) At least 14 days were provided for public comment in the local jurisdiction in which the proposed development would occur; and
- 3) The affected land was posted in accordance with the posting requirements in COMAR 27.03.01.03 D.

Complete Submittal Package

A complete submittal package must be sent to the Critical Area staff 6 weeks prior to a scheduled review by the Project Subcommittee (see schedule, Attachment B). A complete submittal includes the following:

- 1) The completed checklist and supporting documentation;
- 2) Maps and site plans;
- 3) Information demonstrating compliance with the 10% pollutant reduction rule; including a copy of the Commission's Draft ESD Spreadsheet and related stormwater management plans. Requirements can be found on the Commission's website.
- 4) If applicable, proposed Buffer Management Plans, Forest Mitigation planting plans, Planting Agreement Forms, and other necessary information documenting how mitigation requirements are met. Requirements can be found on the Commission's website.
- 5) If applicable, sediment and erosion control approval and stormwater management approval from Maryland Department of the Environment must be obtained or must be in final design stage.
- 6) If applicable, all Maryland Department of the Environment wetland authorizations (tidal and nontidal) and correspondence to and from the Maryland Department of Natural Resources and the Maryland Historical Trust.
- 7) Information demonstrating consideration of climate resiliency and applicable Coast Smart Construction Program documentation should be included.
- 8) Evidence of public notice, including: copies of all public comments received; copy of the newspaper ad; and photograph showing the posting of the affected property. A draft copy of the proposed public notice may be included with the

application submittal. The applicant must meet the 14 day public notice deadline in order to be considered by the Critical Area Commission at its next meeting.

MEMORANDUM OF UNDERSTANDING

Some State agencies have signed a Memorandum of Understanding with the Critical Area Commission to allow certain types of minor development activities through a General Approval process that does not require individual approval of each project (see COMAR 27.02.03). State agencies that have a signed Memorandum of Understanding (MOU) include the following:

- Maryland Department of Natural Resources (DNR)
- Maryland Department of Transportation (MDOT) including
 - State Highway Administration (SHA)
 - Maryland Aviation Administration (MAA)
 - Maryland Port Administration (MPA)
 - Maryland Transit Administration (MTA)
- Maryland Transportation Authority (MdTA)
- St. Mary's College of Maryland
- Washington Suburban Sanitary Commission.

Please contact Commission staff for further information on whether the proposed project qualifies under an MOU and therefore is not required to be voted upon by the Commission. For projects that are covered under general approval please refer to the approved MOU for process requirements.

APPLICATION CHECKLIST

General Project Information

Please include the following text information, if applicable to the site, in the project application materials. This information may be included in the form of letters, reports, or site plan notes.

 Project name and location	 10% Stormwater Rule Draft ESD
Project Purpose	Spreadsheet
 Agency sponsoring project	 Soil erosion and sediment control measures and implementation
 Project description	strategy
 Anticipated timeline	 Lot coverage information
 Total acreage in Critical Area	 Mitigation required for clearing
 Total forest area cleared	of forest area
 Method of stormwater control	 Mitigation required for impacts to the Buffer
 Area of Disturbance within Buffer	Afforested area
 Area of Canopy Clearing within Buffer	 Climate Resilience Summary Statement (see next section)

Climate Resilience Information

In addition to completing the checklist below, compose a short summary statement describing how the following climate resilience factors have been considered during project siting and design. See Attachment C for an example summary statement.

Climate Resilience Checklist

Please include the following information in the project application materials (much of which can be found here: http://dnr.maryland.gov/ccs/coastalatlas/Pages/default.aspx)
This information may be included in the form of text, maps, reports, or site plan notes. Items with an asterisk * should be displayed on a color map. If the development project is required to comply with Coast Smart Construction criteria, much of this material may already be compiled and can be submitted here as well. For additional information regarding any of these items, please see Attachment C.

If required to comply with Coast Smart Construction criteria, include one of the following: - Project Screening Checklist	Intended design lifespan FEMA Floodplains (100-yr, 500-yr, and Special Flood Hazard Areas)* 0-2 Foot and 2-5 Foot Sea Level Rise
 Categorical Exception Cover Sheet Construction Waiver Cover Sheet 	 Inundation Zones* Demonstration of consideration for sea level rise based on lifespan
Ecosystem Resiliency Features*Wetlands or MarshesOyster Beds or ReefsBarrier Islands	 Storm Surge Inundation Zones, Category 1-4* Demonstration of consideration for coastal hazards
- Forested or Vegetated Buffers	Wetland Migration Areas*
Dunes or BeachesUnderwater grasses/Submerged Aquatic Vegetation	 Demonstration of consideration for wetland migration areas
Please include the following features on all site p Vicinity map	lans: Topography
Project boundary	- Including steep slopes (15% or
Scale	greater) and proposed grading.
Orientation	Soil
Project Name and Location Tract or lot lines	TypeArea of hydric soilsArea of highly erodible soils
Critical Area boundary (Breakdown	Vegetative cover
by IDA, LDA, RCA) Limit of Disturbance Limit of Disturbance within Buffer	Existing ForestForest ClearingAfforestation/ReforestationMitigation Areas
	- Willigation Aleas
Area of canopy clearing within Buffer Agricultural lands	Existing and proposed structures

<u>Habitat Protection and other Sensitive Area Mapping Features</u>

Please show the following Habitat Protection Area features on all site plans, if relevant to the particular project site:

Plant and Wildlife Habitats

 Minimum 100 ft. from tidal waters, landward edge of tidal wetlands and tributary streams Expanded Buffer to include 15% or greater slopes, hydric soils and highly erodible soils 25 ft. from nontidal wetlands 	 Colonial water bird nesting sites, historic waterfowl staging and concentration areas, riparian forest, forest interior dwelling bird habitat, areas of state or local significance, and natural heritage areas Anadromous Fish Propagation
Tidal Wetlands	Waters
Nontidal WetlandsThreatened and Endangered Species,Species in need of conservation	
Mitigation Complian (Buffer Management Plans, Forest	t Mitigation Plans, Other Plans)
If mitigation is required as a result of the project, the plan, mitigation bank credit use agreement, and/or for compliance with the requirement.	- -
Mitigation Plan Requirements: A plan drawn to scale showing:	
Limit of disturbanceTotal area of canopy cover removedArrangement of the proposed planting	
 A landscape schedule that meets the planting standa Species type Quantity of plants Size of plants proposed Proposed planting date 	rds outlined in COMAR 27.01.09.01-2 and that includes:
A maintenance plan that includes:	
 Invasive species and pest control practices Watering schedule Signature of the responsible party Provisions for a minimum of 2 years of monitorir A reinforcement planting provision if survival rate 	
A Planting Agreement Form must also be submitted	d (see Attachment D).

Buffers:

Minimum Documentation Requirements

Copies of the following permits/documents should be included in the application package or must be in their final stages (i.e., public comment period completed, permit conditions in final form), if applicable to the site, prior to scheduling the project for review by the Project Subcommittee:

Tidal wetlands approval Tracking #:	License #:
Application Submission Date:	
Approval Status: Pending Issued	
Nontidal wetlands and waterways approval	License #:
Application Submission Date:	
Approval Status: Pending Issued	
Water Quality Certification Tracking #:	License #:
Application Submission Date:	
Approval Status: Pending Issued	
Stormwater Management approval Tracking #:	License #:
Application Submission Date:	
Approval Status: Pending Issued	
Sediment and erosion control plan approval Tracking #:	License #:
Application Submission Date:	
Approval Status: Pending Issued	
U.S. Army Corps of Engineers (ACOE) Permit	
Permit Type:	
Nationwide PermitStand	ard Individual Permit
Regional General PermitLetter	of Permission
State Programmatic General Permit	
Tracking #: Authorization #:	
Application Submission Date:	
Approval Status: Pending Issued	
Maryland Department of Natural Resources (DNR)	
Environmental Review letter	
Date Submitted:	

Maryland Historical Trust (MHT)	
Review letter	
Date Submitted:	
Site Visits Site visits should be arranged with Commission staff by the responsible agency.	

Formal Submission

Application of a complete package may be made by U.S. Mail or electronically via email. Electronic submissions are preferred.

PLEASE SUBMIT THE ABOVE INFORMATION TO:

CRITICAL AREA COMMISSION 1804 WEST STREET, SUITE 100 ANNAPOLIS, MARYLAND 21401 (410) 260-3460 Fax (410) 974-5338

EMAIL: cacadmin.dnr@maryland.gov

ATTACHMENT A

NOTICE REQUIREMENTS

27.03.01.03

.03 Notice Requirements for State Agency and Local Agency Development.

A. The requirements of this regulation do not apply to development that a State agency or local agency proposes in the Critical Area if:

- (1) As provided under COMAR 27.02.02, the development is:
 - (a) A State agency action that results in development of local significance on private lands or lands owned by a local jurisdiction; or
 - (b) A local agency action that results in development of local significance on private lands or lands owned by a local jurisdiction;
- (2) The development is included in a general approval, as provided under COMAR 27.02.03; or;
- (3) All of the following:
 - (a) The development is proposed on State lands;
 - (b) The State agency is otherwise required by operation of law to provide public notice and public comment for that type of development; and
 - (c) Posting is accomplished in accordance with §D of this regulation.

B. Public Notice.

- (1) Except as provided under §A of this regulation, a State agency or local agency that proposes development in the Critical Area shall, as part of its project submittal to the Commission, provide evidence that:
 - (a) Public notice was published for 1 business day in a newspaper of general circulation in the geographic area in which the proposed development would occur;
 - (b) Publication included:
 - (i) The identity of the sponsoring State agency or local agency;
 - (ii) A description of the proposed development;
 - (iii) The street address of the affected land and a statement that its location is in the Critical Area; and
 - (iv) The name and contact information of the person within the sponsoring State agency or local agency designated to receive public comment, including a fax number and email address, and the deadline for receipt of public comment;

- (c) At least 14 days were provided for public comment in the local jurisdiction in which the proposed development would occur; and
- (d) The affected land was posted in accordance with §D of this regulation.
- (2) In addition to the public notice required under §B(1)(a) and (b) of this regulation, a State agency or local agency may provide for public notice:
 - (a) By electronic posting on its website or the website of a newspaper of general circulation in the local jurisdiction in which the proposed development would occur; or
 - (b) To a neighborhood association or residents of a particular geographic area.
- C. Evidence of public notice and opportunity for public comment required under B(1)(a) and (c) of this regulation shall include at least the following documentation:
 - (1) The name of the newspaper and the date on which the notice was published;
 - (2) A copy of the public notice as it was published in the newspaper; and
 - (3) A copy of each written comment received in response to the public notice.
- D. The sponsoring State agency or local agency shall ensure that the posting required under B(1)(d) of this regulation meets the following requirements:
 - (1) The sign is at least 30 inches by 40 inches in size;
 - (2) The sign clearly:
 - (a) Identifies the sponsoring State agency or local agency;
 - (b) Describes the proposed development;
 - (c) Provides the street address of the affected land and states that it is located in the Critical Area; and
 - (d) States the name and contact information of the person within the sponsoring State agency or local agency designated to receive public comment, including a fax number and email address, and the deadline for receipt of public comment;
 - (3) On a date not later than the date on which the notice is published in the newspaper, the sign is posted in a conspicuous location on the affected land and remains there until after the Commission has voted on the development; and
 - (4) For development that extends more than 1,000 linear feet in road frontage, at least one sign is posted at each end of the affected land on which the development is proposed.

ATTACHMENT B

CRITICAL AREA COMMISSION MEETING AND SUBMITTAL SCHEDULE 2022

NOTE: ALL MEETINGS ARE TENTATIVELY SCHEDULED FOR EACH MONTH, BUT MAY NOT OCCUR EACH MONTH

COMMISSION MEETING DATE	6-WEEK PROJECT SUBMITTAL
	DEADLINE
January 5, 2022	November 24
February 2, 2022	December 22
March 2, 2022	January 19
April 6, 2022	February 23
May 4, 2022	March 23
June 1, 2022	April 20
July 6, 2022	May 25
August 3, 2022	June 22
September 7, 2022	July 27
October 5, 2022	August 24
November 2, 2022	September 21
December 7, 2022	October 26

ATTACHMENT C

CLIMATE RESILIENCY FOR STATE PROJECTS

Under COMAR 27.02.05.02(A), all State agencies must consult with the Critical Area Commission, as soon as possible in the planning process, regarding an assessment of proposed state development projects in the Critical Area for climate resilient practices that address coastal hazards, extreme weather events, sea level rise and other impacts.

This includes addressing the following specific standards in COMAR 27.02.05.03:

- 1. Agencies shall demonstrate to the Commission that the agency has considered the likelihood of sea level rise over the course of the design life of the development;
- 2. Agencies shall demonstrate to the Commission that the proposed development identifies and incorporates climate resilient practices in order to avoid, or in the alternative, minimize environmental and structural damage associated with a coastal hazard, an extreme weather event, sea level rise, and other impacts;
- 3. Projects shall to the maximum extent practicable preserve, protect and maintain a potential wetland migration areas within the area of the development project, and adjacent to the area of the development project, if owned or within a legally enforceable right-of way;
- 4. If impacts to a potential wetland migration area are unavoidable, the Agency shall demonstrate to the Commission (1) why that impact is unavoidable, (2) provide an assessment of ecological features on site that could be enhanced, restored, or created in order to maintain existing wetland functions and to provide additional protection against future sea level rise and coastal storm impacts, and (3) make recommendations regarding the most feasible methods to address the detrimental impact, and the enhancement, restoration, and creation of natural features on site; and
- 5. When public access is established, the agency shall demonstrate that the location and design of the project will minimize impacts from sea level rise and long-term access has been considered.

PROCESS

If applicable, agencies may provide the information and documentation compiled as part of the Coast Smart Construction Program requirements to Commission staff as part of the early consultation process to address Items #1 and #2 above. All other projects that are NOT required to comply with the Coast Smart Construction Program requirements must prepare the necessary information and documentation to address Items #1 and #2.

Items #3 through #5 are not a component of the Coast Smart Construction Program and must be separately addressed by the Agency for every project.

Agencies must provide a summary statement to discuss these standards in their project, in addition to

ANALYSIS STANDARDS AND DATA SOURCES

> Sea Level Rise Inundation

The most recent projections for sea level rise for Maryland were published in 2013 by the Scientific and Technical Working Group of the Maryland Climate Change Commission. Those projections included three different response scenarios for 2050 and 2100 depending on how effectively global emissions are managed in the future. The report made the following recommendations for planning purposes:

- 2.1 feet by 2050
- 3.7 feet by 2100 for facilities and infrastructure not intended to last beyond 2100
- 5.7 feet by 2100 for facilities intended to be useful in the next century

Within the application, state the intended design life of the project and determine the projected sea level rise for that time frame. Using the available data sources (below) or similar state or federal resource, include a color map of the projected sea level rise for the project site area with location of development noted on the map. Briefly explain how the likelihood of inundation by sea level rise was considered in selecting the project location.

Preferred Data Sources:

- SHA SLR data layer for 2050 and 2100
- Maryland Coastal Atlas; Sea Level Rise Vulnerability Layer
- Marylands Environmental Resource and Land Information Network (Merlin); Sea Level Rise Vulnerability Layer;
- NOAA Digital Coast; Sea Level Rise and Coastal Flooding Impacts; Sea Level Rise tab; https://coast.noaa.gov/slr/

> Coastal Hazards & Extreme Weather Events

Scientists anticipate an increase in the frequency and intensity of storms due to climate change. Maryland is already experiencing the impacts of this occurrence as evidenced by an increase in coastal flooding. Using the available data sources (below) or similar state or federal resources, include a color map of storm surge from Category 1 through Category 4 storms for the project site area, with location of development noted on the map. Explain how storm surge for a Category 2 storm was factored into siting and design of the project.

A Special Flood Hazard Area (SFHA) includes the land covered by the floodwaters of the base flood (or 100-year flood), and is where the floodplain management regulations must be enforced and mandatory flood insurance purchased. These are designated by the Federal Emergency Management Agency (FEMA). There are multiple zones within the SFHA. Using the available data source below, display SFHAs for the site on a map and explain how the project may be impacted.

Historically, Maryland's shorelines have evolved due to relative sea level rise/inundation, land subsidence, and shoreline erosion. Using the available data sources (below) or similar state or federal resource, demonstrate and briefly explain how the proposed state project might be impacted by potential shoreline erosion.

Preferred Data Sources:

- Maryland Coastal Atlas; Storm Surge Layer
- NOAA Coastal Flood Exposure Mapper; Flood Hazards; Storm Surge Layer https://coast.noaa.gov/floodexposure/#/splash
- FEMA Flood Map Service Center; https://msc.fema.gov/portal
- Maryland Coastal Atlas; Shoreline Rates of Change Layer

Wetland Migration Areas

Wetlands naturally provide a form of coastal protection in addition to valuable, diverse ecosystems. As sea levels rise, wetlands will migrate further inland. Development and hardened shorelines will prevent their migration and lead to a reduction in tidal wetlands. Maintaining and creating wetland migration areas is essential to their survival. Using the data sources below, create a map of potential wetland migration corridors within the project site area and demonstrate how these corridors will be avoided if applicable. If impacts to a potential wetland migration area are unavoidable, demonstrate why, assess how other ecological features may be enhanced, restored or created to maintain existing wetland functions to provide protection against future impacts, and provide recommendations for addressing the detrimental impact and enhancement of natural features.

Preferred Data Sources:

- Maryland Coastal Atlas; Sea Level Rise Wetland Adaptation Areas Layer
- NOAA Digital Coast; Sea Level Rise and Coastal Flooding Impacts; Marsh tab; https://coast.noaa.gov/slr/

Ecosystem Resiliency Features

Wetlands naturally provide a form of coastal protection in addition to valuable, diverse ecosystems. Similarly, barrier islands not only provide habitat for marine life but also provide a buffer between coastal hazards such as the waves and wind of storm surge and a developed waterfront. Oyster beds and reefs provide numerous services as well, including protection from erosion and flooding as well as improvements to water quality. Buffers that are appropriately vegetated or forested are a line of defense from coastal hazards, too, by holding land in place, lessening the effects of storm surge and collecting water to reduce flooding. Dunes play a role in coastal resilience by absorbing wave energy, as well as by reducing flooding and erosion. Submerged aquatic vegetation and underwater grasses may help to act as a buffer to marshes and beaches, thus helping to protect the shoreline.

On the project site map, identify ecosystem resiliency features and demonstrate how impacts to these features will be avoided. If possible, or if required due to detrimental impacts to a potential wetland migration area, provide an assessment of how these features will be enhanced, restored or created to provide further protection from coastal hazards.

Preferred Data Sources:

- Maryland Coastal Atlas; Wetlands Layer
- Merlin Online; Submerged Aquatic Vegetation and Shellfish Layers

Climate Resilient Practices

When development and redevelopment along Maryland's coasts are unavoidable, measures can be taken to protect investments from existing and future coastal hazards. If the following climate resilient practices are incorporated into the design of the development project, please describe how they have been included:

- Freeboard standard adopted by Coast Smart Council above the 100-year base flood elevation, depending on criteria established by the Coast Smart Council for Coast Smart Construction;
- Wet proofing or dry proofing of structures below base flood elevation;
- Consideration of flooding potential for selection of construction materials.

Summary Statement Example – Assateague State Park

Assateague State Park, being located on a coastal barrier island, is subject to coastal hazards including extreme weather events. The campground already exists and the purpose of the project is to move roads westward, away from the primary dune system to minimize storm impacts. No new structures are being built, instead the roads are being reconfigured to allow the campground to continue to be used but minimizing maintenance and repair in the future. The most vulnerable areas of the island (the landside tidal marshes) are not within the project site. The Maryland Park Service views this project as the small first step in retreating from the coast. Further costly infrastructure improvements are being avoided wherever possible while also providing the recreational experience millions of visitors expect each year.

ATTACHMENT D

Planting Agreement for State Projects

State Agency	Project Number		
Agency Contact	Phone Number		
Commission Approval Date	CAC Planner		
Project Name			
Project Location			
Square Feet Cleared Outside 100ft Buffer	Mitigation Ratio for Clearing Outside Buffer		
	Mitiration Calculation Outside Poffers		
	Mitigation Calculation Outside Buffer		
Course Foot Distructor d'Classed Within Duffer	Mitiration Datis for Disturbance/Cleaning Within Duffer		
Square Feet Disturbed/Cleared Within Buffer	Mitigation Ratio for Disturbance/Clearing Within Buffer		
15% Afforestation Provided (if required)	Mitigation Calculation Within Buffer		
	Total Mitigation Requirement		
	Total mitigation requirement		
Planting and Natural Regeneration Plan Summary (Planting Plans should be submitted separately)			

Planting Date	Year		
First Site Visit Date	Completed by	Second Site Visit Date	Completed P
First Site visit Date	Completed by	Second Site Visit Date	Completed B
Date Mitigation Complete			
Responsible Contact for Mitigation (Print)		Signature	Date